

REMARKS

Claims 13, 14 and 43 are amended to correct typographical errors.

Claims 19-22 are allowed as confirmed in the Examiner interview of December 6, 2005 with Examiner Wood.

Claims 9-24 are not addressed in the current Office Action and were not designated as being allowed in the previous Office Action. In view of the arguments presented in response to the previous Office Action, and the lack of rejection of claims 9-24 in the current Office Action, these claims are also understood to be allowed.

Claims 1-5 and 7-44, are pending in the application. Reconsideration and allowance of the application are respectfully requested.

The Office Action does not establish a *prima facie* case that claims 1-5, 7-8, 25, 29-33 and 35-36 are directed to non-statutory subject matter under 35 USC 101. The rejection is respectfully traversed because the Office Action does not establish a *prima facie* case that the invention as a whole is directed solely to an abstract idea or to manipulation of abstract ideas or does not produce a useful result. The MPEP at §2106 II. A. provides the following guidance:

Although the courts have yet to define the terms useful, concrete, and tangible in the context of the practical application requirement for purposes of these guidelines, the following examples illustrate claimed inventions that have a practical application because they produce useful, concrete, and tangible result:

- Claims drawn to a long-distance telephone billing process containing mathematical algorithms were held to be directed to patentable subject matter because "the claimed process applies the Boolean principle to produce a useful, concrete, tangible result without pre-empting other uses of the mathematical principle." *AT&T Corp. v. Excel Communications, Inc.*, 172 F.3d 1352, 1358, 50 USPQ2d 1447, 1452 (Fed. Cir. 1999);

- "[T]ransformation of data, representing discrete dollar amounts, by a machine through a series of mathematical calculations into a final share price, constitutes a practical application of a mathematical algorithm, formula, or calculation, because it produces 'a useful, concrete and tangible result' -- a final share price momentarily fixed for recording and reporting purposes and even accepted and relied upon by regulatory authorities and in subsequent trades." *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601; and

- Claims drawn to a rasterizer for converting discrete waveform data samples into anti-aliased pixel illumination intensity data to be displayed on a display means were held to be directed to patentable subject matter since the claims defined "a specific machine to produce a useful, concrete, and tangible result." *In re Alappat*, 33 F.3d 1526, 1544, 31 USPQ2d 1545, 1557 (Fed. Cir. 1994).

A process that consists solely of the manipulation of an abstract idea is not concrete or tangible. See *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994). See also *Schrader*, 22 F.3d at 295, 30 USPQ2d at 1459. Office personnel have the burden to establish a *prima facie* case that the claimed invention as a whole is directed to solely an abstract idea or to manipulation of abstract ideas or does not produce a useful result. Only when the claim is devoid of any limitation to a practical application in the technological arts should it be rejected under 35 U.S.C. 101. Compare *Musgrave*, 431 F.2d at 893, 167 USPQ at 289; *In re Foster*, 438 F.2d 1011, 1013, 169 USPQ 99, 101 (CCPA 1971). Further, when such a rejection is made, Office personnel must expressly state how the language of the claims has been interpreted to support the rejection.

Based on the direction provided by the MPEP, the Office Action fails to present any evidence to show that the claims do not produce a useful, concrete, and tangible result. Claim 1 sets forth a method for selectively collecting information from a plurality of logical segments in a computing environment. Those skilled in the art will recognize that a computing environment is concrete and tangible, and the collection of information in a computing environment is also concrete and tangible. Claim 1 specifically recites function, address, and control information of a memory access request for which a control mode is controllably designated; storing the function, address, and control information identified by the designated information storage mode; and further in response to a first mode, the function, address, and control information is stored each time a memory request is received; and in response to a second mode, the function, address, and control information stored responsive to function and address information in the memory request matching designated function and address information. Both the information of a memory request and the storage of this information is understood to be concrete and tangible to those skilled in the art in view of the specification. Claims 2-5, 7-8, and 35-36, which depend from claim 1, contain further limitations that are thought to be concrete and tangible.

Independent claim 25 includes similar limitations to those of claim 1 and is also understood to be directed to statutory subject matter. In addition, claim 25 includes limitations of monitoring for activation of the designated storage commencement event; and in response to a first information storage mode, the function, address, and control information is stored each time a memory request is received; and in response to a second information storage mode, the function, address, and control information stored responsive to function and address information in the memory request matching designated function and address information. These and the additional monitoring for activation and disabling of storage would be understood to be concrete and tangible to those skilled in the art. Claims 29 and 31-33, which depend from claim 25, are similarly understood to be directed to statutory subject matter.


Independent claim 30 includes similar limitations to those of claim 25 and is also understood to be directed to statutory subject matter.

Thus, the Office Action fails to establish a *prima facie* showing that claims 1-5, 7-8, 25, 29-33 and 35-36 are directed to abstract ideas. Based on the specific embodiments and the utilities of the invention disclosed in the complete specification, claims 1-5, 7-8, 25, 29-33 and 35-36 are thought to be directed to statutory subject matter and in condition for allowance.

Reconsideration and allowance of the application are respectfully requested. No extension of time is believed to be necessary for consideration of this response. However, if an extension of time is required, please consider this a petition for a sufficient number of months for consideration of this response. If there are any additional fees in connection with this response, please charge Deposit Account No. 50-0996 (USYS.066PA).

Respectfully submitted,

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